

REMARKS

I. General

Claims 1 – 18 are presently pending in the application. The issues in the current Office Action are as follows:

- Claim 1 is objected to because of informalities.
- Claims 1, 2, 8, 9, 13 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0078632 to Aramaki et al. (hereinafter, Aramaki) in view of Japanese Patent Publication No. JP 10-164640 to Matsumoto et al. (hereinafter, Matsumoto).
- Claims 3 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and U.S. Patent No. 5,396,253 to Chia (hereinafter, Chia).
- Claims 4, 10 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and U.S. Patent No. 6,519,248 to Valkó (hereinafter, Valkó).
- Claims 5, 6 and 14 – 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and U.S. Patent Publication No. 2005/0075141 to Hoffmann et al. (hereinafter, Hoffmann).
- Claims 7 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and U.S. Patent Publication No. 2005/0088972 to Zhang et al. (hereinafter, Zhang).

Applicant appreciates the courtesy and professionalism extended by the Examiner thus far. Applicant hereby traverses the rejections and requests reconsideration and withdrawal in light of the amendments and remarks contained herein.

II. Claim Objections

Claim 1 is objected to because of informalities. Claim 1 has been amended to recite “associating a first station of a wireless switch” in accordance with the Examiner’s suggestion. No new matter is added by this amendment.

III. Claim Amendments

In addition to the amendment to claim 1 noted above, claims 9 and 13 have been amended to more clearly define the invention. Specifically, claims 9 and 13 have been amended to recite “signal strengths received, at said plurality of stations” Support for the amendment to claims 9 and 13 may be found at least at paragraphs [0025] and [0026] of the specification. No new matter has been added by these amendments.

IV. Claim Rejections

A. 35 U.S.C. § 103(a) Rejection over Aramaki in view of Matsumoto

Claims 1, 2, 8, 9, 13 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto. The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. M.P.E.P. § 2142; *In re Peehs*, 612 F.2d 1287, 204 USPQ 835, 837 (CCPA 1980). In an obviousness rejection, “[u]nder § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.” *Graham v. John Deere Co.*, 383 U.S. 1, 15 – 17 (1966). The Applicant discusses below why the rejected claims are patentable over Aramaki in view of Matsumoto.

1. Independent claims 1, 9 and 13

The Examiner has failed to show that Aramaki in view of Matsumoto renders claims 1, 9 and 13 obvious. Claim 1, for example, requires,

monitoring signal strengths of said first and second access points as received by said first and second stations; and switching to routing data between said plurality of wireless

devices and said second access point using said second station
in response to said monitoring.

The Examiner has cobbled together different portions of the references that mentions aspects of these limitations of claim 1 but has failed to show that the references teach the limitations as a whole. For instance, the Examiner has conceded that the primary reference—Aramaki—does not teach “monitoring signal strengths of said first and second access points as received by said first and second station” Office Action, page 4. Consequently, the Examiner relies on Matsumoto, paragraph [0005] for teaching this limitation of claim 1. But the Examiner’s reliance on paragraph [0005] is misplaced. Paragraph [0005] merely describes a single mobile communication apparatus that has a single antenna, which detects the fall of a receiving level from a first fixed station office (the asserted first access point). *See* figure 7, item 2 (showing a single antenna receiving signals from the first fixed station office). This disclosure is insufficient to teach monitoring the signal strengths of two access points as received by two different stations of a wireless switch. In particular, a single mobile communication apparatus having a single antenna simply cannot be read to meet the recited first and second stations of a wireless switch.

Moreover, claim 1 requires that the first and second stations are part of a wireless switch. But the mobile communications apparatus relied on by the Examiner, in paragraph [0005], to teach monitoring signal strengths, is neither a wireless switch nor shown to be part of a wireless switch. As described in paragraph [0005], the mobile communication apparatus transmits a hand-over demand to the first fixed station office. The first fixed station office then transmits the hand-over demand to a central base station. The central base station then performs the switching from the first fixed station office to a second fixed station office (the asserted second access point). In other words, the mobile communication apparatus, described in paragraph [0005] of Matsumoto that is asserted as performing signal strength monitoring clearly does not perform switching. In contrast, claim 1 requires that a wireless switch is capable of monitoring signal strengths and also switching based on that monitoring. Therefore, paragraph [0005] does not teach a wireless switch and it is improper for the Examiner to rely on this disclosure of Matsumoto to teach monitoring signal strengths as received at first and second stations of a wireless switch.

It is important to note that figure 7 and paragraph [0005], which are relied on to show monitoring of signal strength, describe the status of the art prior to the Matsumoto invention. Further, for the portions of claim 1 that require different stations of a wireless switch, the Examiner relies on an embodiment of the Matsumoto invention for that teaching. *See* Office Action, pages 4 – 5. But the Examiner has not shown that any disclosure in Matsumoto teaches monitoring signal strengths of two access points as received by two different stations of a wireless switch. Instead, the Examiner has merely parsed the limitation into different parts and asserted monitoring signal strengths is taught by a disclosure of prior art to the Matsumoto invention and that having a device with two stations is taught by the Matsumoto invention. From these two assertions the Examiner concludes that the limitation at issue was known. This analysis clearly fails to show that Matsumoto teaches “monitoring signal strengths of said first and second access points as received by said first and second stations” At least for these reasons, the Examiner has failed to show that Aramaki in view of Matsumoto teaches all the limitations of claim 1 and that claim 1 is obvious.

Similarly, Aramaki in view of Matsumoto fails to render claims 9 and 13 obvious. For example, claim 9 as amended requires a wireless switch having a plurality of stations and “a packet switch controller . . . wherein said packet switch controller is operable to switch communications between said plurality of stations in response to signal strengths received, at said plurality of stations, from said plurality of access points crossing threshold values. Claim 13 requires, “a wireless switch comprising: a plurality of stations . . . a packet switch controller . . . wherein said packet switch controller switches between said plurality of stations in response to signal strengths received, at said plurality of stations, from said plurality of access points.” The Examiner relies on one device disclosed in Matsumoto (fig. 1. 7h) for teaching a packet switch controller and another (fig. 7, paragraph [0005]) for teaching signal strengths received by a plurality of stations of a wireless switch. As described above, with respect to claim 1, parsing the limitations into different parts and pointing to different devices for teaching the different aspects of the limitation is improper and does not show that the references teach or suggest the limitation as a whole. Moreover, similar to the discussion with respect to claim 1, paragraph [0005] does not teach a wireless switch receiving signal strengths at a plurality of stations and that switching may be performed in response to those signal strengths received at a plurality of stations. At least for these

reasons, Aramaki in view of Matsumoto does not render claims 9 and 13 obvious. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 9 and 13.

2. Dependent claims 2, 8 and 18

Dependent claims 2 and 8 depend from independent claim 1 and dependent claim 18 depends from independent claim 13, and thus, each inherits all of the limitations of their respective base claims. It is respectfully submitted that dependent claims 2, 8 and 18 are patentable at least because of their dependence from independent claims 1 and 13 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 2, 8 and 18.

B. 35 U.S.C. § 103(a) Rejection over Aramaki in view of Matsumoto and Chia

Claims 3 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and Chia. Dependent claims 3 and 11 depend from independent claims 1 and 9, and thus, inherit all of the limitations of their respective base claims. It is respectfully submitted that dependent claims 3 and 11 are patentable at least because of their dependence from independent claims 1 and 9 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 3 and 11.

C. 35 U.S.C. § 103(a) Rejection over Aramaki in view of Matsumoto and Valkó

Claims 4, 10 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and Valkó. Dependent claims 4, 10 and 17 depend from independent claims 1, 9 and 13, and thus, inherit all of the limitations of their respective base claims. It is respectfully submitted that dependent claims 4, 10 and 17 are patentable at least because of their dependence from independent claims 1, 9 and 13 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 4, 10 and 17.

D. 35 U.S.C. § 103(a) Rejection over Aramaki in view of Matsumoto and Hoffmann

Claims 5, 6 and 14 – 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and Hoffmann. Dependent claims 5, 6 and 14 – 16 depend either directly or indirectly from independent claims 1 and 13, and thus, inherit all of the limitations of their respective base claims. It is respectfully submitted that dependent claims 5, 6 and 14 – 16 are patentable at least because of their dependence from independent claims 1 and 13 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 5, 6 and 14 – 16.

E. 35 U.S.C. § 103(a) Rejection over Aramaki in view of Matsumoto and Zhang

Claims 7 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aramaki in view of Matsumoto and Zhang. Dependent claims 7 and 12 depend from independent claims 1 and 9, and thus, inherit all of the limitations of their respective base claims. It is respectfully submitted that dependent claims 7 and 12 are patentable at least because of their dependence from independent claims 1 and 9 for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of claims 7 and 12.

V. Conclusion

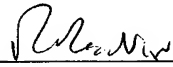
In view of the above, Applicant believes the pending application is in condition for allowance and respectfully requests favorable reconsideration. Applicant believes that no fee is due with this response. Please charge any fees required or credit any overpayment to Deposit Account No. 06-2380, under Order No. 64032/P015US/10404210 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Application No. 10/825,089
Amendment dated December 14, 2010
Reply to Office Action of September 15, 2010

Docket No.: 64032/P015US/10404210

Dated: December 14, 2010

Respectfully submitted,

By  _____

R. Ross Viguet

Registration No.: 42,203

FULBRIGHT & JAWORSKI L.L.P.

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-2784

(214) 855-8185

(214) 855-8200 (Fax)

Attorney for Applicant